

## **MEETING MINUTES**

### **MILPITAS PLANNING COMMISSION Milpitas City Hall, Council Chambers 455 E. Calaveras Blvd., Milpitas, CA**

**Wednesday, October 14, 2015**

- I. PLEDGE OF ALLEGIANCE**      **Vice Chair Madnawat** called the meeting to order at 7:00 P.M. and led the Pledge of Allegiance.
- II. ROLL CALL/ SEATING OF ALTERNATE**      **Commissioners**  
**Present:**      Vice Chair Rajeev Madnawat, Commissioners Gurdev Sandhu, Larry Ciardella, Demetress Morris, Hon Lien, Ray Maglalang, Zeya Mohsin  
**Absent:**      Sudhir Mandal  
**Staff:**      Bill Ekern, Katy Wisinski, Tracy Tam, Cindy Hom
- III. PUBLIC FORUM**      **Vice Chair Madnawat** invited members of the audience to address the Commission and there were no speakers.
- IV. APPROVAL OF MEETING MINUTES**      **Vice Chair Madnawat** called for approval of the September 23, 2015 meeting minutes of the Planning Commission.  
**Motion** to approve Planning Commission meeting minutes.  
Motion/Second:      Commissioner Maglalang/Commissioner Lien  
AYES:      5  
NOES:      0  
ABSTAIN:      2      Sandhu, Morris
- V. ANNOUNCEMENTS**      **Vice Chair Madnawat** introduced the new attorney for the Planning Commission, Katy Wisinski of the law firm Best Best & Krieger.
- VI. CONFLICT OF INTEREST**      **Attorney Katy Wisinski** asked if any member of the Commission had any personal or financial conflict of interest related to any of the items on the agenda.  
  
There were no reported conflicts.

**VII. APPROVAL OF  
AGENDA**

**Vice Chair Madnawat** asked if staff or Commissioners had changes to the agenda and there were none.

**Motion** to approve the October 14, 2015 agenda as submitted.

Motion/Second: Commissioner Sandhu/Commissioner Maglalang

AYES: 7

NOES: 0

**VIII. CONSENT  
CALENDAR**

**NO ITEMS**

**IX. PUBLIC HEARING**

**IX-1 DAY STAR MONTESSORI CUP AMENDMENT - 215 Dempsey Road - UA14-0006:** A request for a Conditional Use Permit Amendment to allow for the expansion of an existing preschool facility for a maximum of 150 students in an existing commercial building.

Project Planner Tracy Tam showed a presentation reviewing the amendment request.

Commissioner Ciardella asked if the number of restrooms is sufficient for the addition of 60 children and Ms. Tam said she is not aware of the requirements and that it will be addressed at the building permit stage of the project.

Commissioner Maglalang asked if the proposed parking spaces include the spaces on the street and Ms. Tam said that on-street parking was not included in the parking analysis.

Commissioner Morris asked the applicant to address the commissioners' concerns about the restrooms and parking. Andrew Leahy, owner and operator of Day Star Montessori, discussed the parking plan and said they meet the requirements, and spoke about the ratio of students per restroom and the allowance for a diaper changing station in place of a restroom for toddlers.

There was discussion about parking for the 16 staff members. Eric Alexander, a partner of the preschool, said some staff members carpool and others live in the area and walk to work. He added that parking is at 51% of capacity at their busiest times and adding students should not exceed the parking available.

Vice Chair Madnawat opened the public hearing and there were two speakers.

Milpitas resident Dave Siddell spoke in favor of the school and said he hopes the commission will approve the expansion.

A gentleman with a business located next to the school said they have been very good neighbors and there have been no parking concerns.

**Motion** to close the public hearing.

Motion/Second: Commissioner Sandhu/Commissioner Maglalang

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AYES: 7

NOES: 0

Vice Chair Madnawat asked if staff is comfortable with the parking situation and Mr. Ekern said they are. He said staff can work with the applicant if complaints are received and they will keep an eye on the parking situation on Dempsey Road.

**Motion** to Adopt Resolution No. 15-026 approving Conditional Use Permit Amendment No. UA14-0006 to allow for the expansion of an existing preschool facility for a maximum of 150 students in an existing commercial building located at 215 Dempsey Road, subject to the findings and Conditions of Approval.

Motion/Second: Commissioner Morris/Commissioner Lien

AYES: 7

NOES: 0

## IX-2

### **PARADISE SPA CUP AMENDMENT – 200 SERRA WAY SUITE 4 – UA15-0004:**

A request for a 782 square foot tenant expansion to accommodate three new massage treatment rooms, tanning room and ancillary space to an existing massage establishment.

Project Planner Cindy Hom provided an overview of the item.

Commissioner Morris referenced a letter from a resident opposing the spa expansion. Ms. Hom said the spa is located in a shopping center with various different uses, is compatible, and adds to the vitality of the center. She noted there were no police reports relating to the use at this site.

Vice Chair Madnawat opened the public hearing and there were no speakers.

**Motion** to close the public hearing.

Motion/Second: Commissioner Sandhu/Commissioner Maglalang

AYES: 7

NOES: 0

Commissioner Morris asked about reviewing the project after one year. It was agreed that staff will review the project after one year, and if there have been no complaints will make the decision at staff level to extend the permit without returning to the commission.

**Motion** to Adopt Resolution No. 15-032 approving Conditional Use Permit Amendment No. UA15-0004 to allow for a 782 square foot tenant expansion to an existing massage establishment subject to the findings and conditions of approval with a condition that staff review the permit after one year.

Motion/Second: Commissioner Morris/Commissioner Maglalang

AYES: 7

NOES: 0

**IX-3**

**SPECIAL EVENTS ORDINANCE – ZA15-0004:** A request for a Zoning Text Amendment to adopt new provisions in the Zoning Ordinance to establish review requirements and general regulations for special events and activities.

Project Planner Cindy Hom provided an overview of the ordinance and proposed revisions.

Vice Chair Madnawat asked if it will be possible for staff to provide an estimate of costs to applicants for small events that do not require road closures. Mr. Ekern said it is difficult to estimate costs but hopes the ordinance will provide better cost control and help address uncertainties up front and eliminate surprises at the end.

Commissioner Maglalang asked if the ordinance will reduce the number of subcommittee meetings and Mr. Ekern said it will, adding that permits are often needed at the last minute, requiring a special meeting, and the ordinance will eliminate that and allow staff to process them.

Commissioner Sandhu asked if applicants for special event will be aware of the fees and that permits need to be obtained by other departments, and Ms. Hom said staff will try to provide an estimate and will update the applications which should help process the paperwork through other departments.

Commissioner Morris said she would like more time to review the ordinance since she did not have a chance to do so.

Vice Chair Madnawat opened the public hearing and there was one speaker.

Milpitas resident Dave Siddell spoke about the ordinance and his opinion that it violates the constitution and freedom of assembly. Attorney Katy Wisinski said she reviewed the ordinance in light of protecting the first amendment liberties. As written, it completely exempted from the permit requirement any first amendment events that arise as a result of a contemporaneous decision or event that may give rise to a spontaneous speech and referred to exemptions to the permit requirements in Section 10-15.06e.

Ms. Wisinski said there may be other situations that are not responsive to something so immediate but may impact the community by shutting down a street or requiring police protection and in those instances the city is authorized to require a permit for that type of event in order to balance the public interest between first amendment expression and the communities needs and the impact of that expression on the community. She said this is the balance they have sought in this ordinance.

**Motion** to close the public hearing.

Motion/Second: Commissioner Morris/Commissioner Maglalang

AYES: 7

NOES: 0

**Motion** to Adopt Resolution No. 15-017 recommending the City Council adopt Zoning Amendment No. ZA15-0004 to amend the Zoning Code to add new provisions relating to special events and activities.

Motion/Second: Commissioner Ciardella/Commissioner Sandhu

AYES: 5

NOES: 2 Morris, Maglalang

**X. NEW BUSINESS**

**NO ITEMS**

**XI. ADJOURNMENT** The meeting was adjourned at 8:40 PM to the next meeting scheduled on Wednesday, October 28, 2015.

**Motion** to adjourn to the next meeting.

Motion/Second: Commissioner Ciardella/Commissioner Morris

AYES: 7

NOES: 0

*Meeting Minutes submitted by  
Planning Secretary Elia Escobar*